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HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A No.127/2006

CORAM: Hon'ble Shri S.R. Nayak, Chief Justice &
Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Appellant : Bajaj Alliances General Insurance
Company Limited, Registered Office,
G.E.Plaza, Airport Road, Werabada, Pune
(Maharashtra) through - Its General
Manager.

Respondents : 1. M/s. Wibson Industries Pvt Ltd. Through
- Director, II Floor, Balazi Mangalgiri
Chambers, Siripuram, Vishakhapatnam
(A.P.) Non-applicant No.1

: 2. Sandeep Banspal, aged about 40 years, son
of Shri S.C.Banspal, resident of M.I.G. 26,
Housing Board Colony, Near Bharat Mata
School, Tatibandh, Distt. Raipur (C.G.)
Non-applicant No.2

: 3. Smt. Gitanjali Soni, aged about 27 years,
wife of Late Ramesh Soni,
Applicant No.1 (Claimant)

: 4. Ku. Prerana Soni, aged about 4 years, son
of Late Ramesh Soni - Minor through
Mother Smt. Geetanjali Soni.
Applicant No.2 (Claimant)

: 5. Nakul Soni, aged about 60 years, son of
late Dhaneshwar Soni,
Applicant No.3 (Claimant)

: 6. Smt. Padma Soni, aged about 55 years,
wife of Shri Nakul Soni,
Applicant No.4 (Claimant)

: 7. Nilesh Soni, aged about 22 years, son of
Shri Nakul Soni.
Applicant No.5 (Claimant)

All are resident of sector 5 D. 425/426,
Tagore Nagar, Tahsil and District Raipur
(C.G.)

Shri Rajesh Pandey, Advocate for the appellant.

ORAL ORDER
(Passed on 13.2.2006)

The following oral order of the Court was passed by
S.R.NAYAK, C.J.

This is an appeal preferred by the Insurance Company. While attacking the impugned award, the learned standing counsel for Insurance Company would contend:

- (i) that the (Motor Accidents Claims Tribunal) M.A.C.T. is not justified in taking the annual income of the deceased at Rs.1,50,000/-;
- (ii) that the M.A.C.T. ought to have held that the driver of the truck, another vehicle involved in the accident also contributed negligence in causing the accident, and therefore, it ought to have apportioned the blame on both the drivers of the vehicles involved in the accident and
- (iii) that the M.A.C.T. is not justified in applying the multiplier 15 for assessing loss of dependency.

We do not find any merit in any of these three contentions. It has come in the evidence that the deceased just before his demise in the accident, had filed return showing Rs.1,45,389/- as his annual income under the Income Tax Act. After his death, his widow, for the succeeding year, filed return on behalf of the deceased showing the annual income of Rs.1,45,389/-. The deceased was aged 35 years as on the date of the accident. If the deceased was to alive, his

annual income would have been expectedly much more than Rs.1,49,000/-. Be that as it may, the M.A.C.T. has taken the annual income of the deceased at Rs.1,50,000/- only and, therefore, there is no merit in the contention of the learned counsel for the appellant that the M.A.C.T. ought not to have taken the annual income of the deceased at Rs.1,50,000/-.

2. With regard to the plea of the appellant-Insurance Company that the driver of the truck involved in the accident also contributed negligence in causing the accident, suffice it to state that in paragraph 17 of the award, the M.A.C.T. has considered the above plea of the Insurance-Company and has recorded the factual finding that the driver of the truck did not contribute negligence in causing the accident. The above factual finding recorded by the M.A.C.T. could not be condemned as perverse for want of legal evidence.

3. The third contention urged by the learned counsel for the Insurance-Company is required to be noticed only to be rejected. Admittedly, the deceased was aged 35 years as on the date of the accident. Strictly speaking, the M.A.C.T. ought to have applied multiplier 17 to assess the loss of dependency, and therefore, the Insurance-Company cannot have any legitimate grievance against the award because the M.A.C.T. has applied multiplier of 15.

4. We do not find any merit in the appeal and it is accordingly dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge